



General Assembly

February Session, 2008

***Raised Bill No. 581***

LCO No. 2601

\*02601\_\_\_\_ENV\*

Referred to Committee on Environment

Introduced by:  
(ENV)

***AN ACT CONCERNING THE ENFORCEMENT AUTHORITY OF THE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND MOTOR  
BUS IDLING.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-6b of the 2008 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective October 1, 2008*):

4 (a) The Commissioner of Environmental Protection shall adopt  
5 regulations, in accordance with the provisions of chapter 54, to  
6 establish a schedule setting forth the amounts, or the ranges of  
7 amounts, or a method for calculating the amount of the civil penalties  
8 which may become due under this section. Such schedule or method  
9 may be amended from time to time in the same manner as for  
10 adoption provided any such regulations which become effective after  
11 July 1, 1993, shall only apply to violations which occur after said date.  
12 The civil penalties established for each violation shall be of such  
13 amount as to insure immediate and continued compliance with  
14 applicable laws, regulations, orders and permits. Such civil penalties  
15 shall not exceed the following amounts:

16 (1) For failure to file any registration, other than a registration for a  
17 general permit, for failure to file any plan, report or record, or any  
18 application for a permit, for failure to obtain any certification, for  
19 failure to display any registration, permit or order, or file any other  
20 information required pursuant to any provision of section 14-100b or  
21 14-164c of the 2008 supplement to the general statutes, subdivision (3)  
22 of subsection (b) of section 15-121, section 15-171, 15-172, 15-175, 22a-5,  
23 22a-6 of the 2008 supplement to the general statutes, 22a-7, 22a-32, 22a-  
24 39 or 22a-42a, 22a-45a, chapter 441, sections 22a-134 to 22a-134d,  
25 inclusive, of the 2008 supplement to the general statutes subsection (b)  
26 of section 22a-134p, section 22a-171, 22a-174, 22a-175, 22a-177, 22a-178,  
27 22a-181, 22a-183, 22a-184, 22a-208, 22a-208a, 22a-209, 22a-213, 22a-220,  
28 22a-231, 22a-336, 22a-342, 22a-345, 22a-346, 22a-347, 22a-349a, 22a-354p  
29 of the 2008 supplement to the general statutes, 22a-358, 22a-359, 22a-  
30 361, 22a-362, 22a-368, 22a-401 to 22a-405, inclusive, 22a-411 of the 2008  
31 supplement to the general statutes, 22a-416, 22a-417, 22a-424 to 22a-  
32 433, inclusive, 22a-447, 22a-449 of the 2008 supplement to the general  
33 statutes, 22a-450, 22a-451, 22a-454, 22a-458, 22a-461, 22a-462 or 22a-471,  
34 or any regulation, order or permit adopted or issued thereunder by the  
35 commissioner, and for other violations of similar character as set forth  
36 in such schedule or schedules, no more than one thousand dollars for  
37 said violation and in addition no more than one hundred dollars for  
38 each day during which such violation continues;

39 (2) For deposit, placement, removal, disposal, discharge or emission  
40 of any material or substance or electromagnetic radiation or the  
41 causing of, engaging in or maintaining of any condition or activity in  
42 violation of any provision of section 14-100b or 14-164c of the 2008  
43 supplement to the general statutes, subdivision (3) of subsection (b) of  
44 section 15-121, section 15-171, 15-172, 15-175, 22a-5, 22a-6 of the 2008  
45 supplement to the general statutes, 22a-7, 22a-32, 22a-39 or 22a-42a,  
46 22a-45a, chapter 441, sections 22a-134 to 22a-134d, inclusive, of the  
47 2008 supplement to the general statutes section 22a-69 or 22a-74,  
48 subsection (b) of section 22a-134p, section 22a-162, 22a-171, 22a-174,  
49 22a-175, as amended by this act, 22a-177, 22a-178, 22a-181, 22a-183,

50 22a-184, 22a-190, 22a-208, 22a-208a, 22a-209, 22a-213, 22a-220, 22a-336,  
51 22a-342, 22a-345, 22a-346, 22a-347, 22a-349a, 22a-354p of the 2008  
52 supplement to the general statutes, 22a-358, 22a-359, 22a-361, as  
53 amended by this act, 22a-362, 22a-368, 22a-401 to 22a-405, inclusive,  
54 22a-411 of the 2008 supplement to the general statutes, 22a-416, 22a-  
55 417, 22a-424 to 22a-433, inclusive, 22a-447, 22a-449 of the 2008  
56 supplement to the general statutes, 22a-450, 22a-451, 22a-454, 22a-458,  
57 22a-461, 22a-462 or 22a-471, or any regulation, order or permit adopted  
58 thereunder by the commissioner, and for other violations of similar  
59 character as set forth in such schedule or schedules, no more than  
60 twenty-five thousand dollars for said violation for each day during  
61 which such violation continues;

62 (3) For violation of the terms of any final order of the commissioner,  
63 except final orders under subsection (d) of this section and emergency  
64 orders and cease and desist orders as set forth in subdivision (4) of this  
65 subsection, for violation of the terms of any permit issued by the  
66 commissioner, and for other violations of similar character as set forth  
67 in such schedule or schedules, no more than twenty-five thousand  
68 dollars for said violation for each day during which such violation  
69 continues;

70 (4) For violation of any emergency order or cease and desist order of  
71 the commissioner, and for other violations of similar character as set  
72 forth in such schedule or schedules, no more than twenty-five  
73 thousand dollars for said violation for each day during which such  
74 violation continues;

75 (5) For failure to make an immediate report required pursuant to  
76 subdivision (3) of subsection (a) of section 22a-135, or a report required  
77 by the department pursuant to subsection (b) of section 22a-135, no  
78 more than twenty-five thousand dollars per violation per day;

79 (6) For violation of any provision of the state's hazardous waste  
80 program, no more than twenty-five thousand dollars per violation per  
81 day;

82 (7) For wilful violation of any condition imposed pursuant to  
83 section 26-313 which leads to the destruction of, or harm to, any rare,  
84 threatened or endangered species, no more than ten thousand dollars  
85 per violation per day;

86 (8) For violation of any provision of sections 22a-608 to 22a-611,  
87 inclusive, no more than the amount established by Section 325 of the  
88 Emergency Planning and Community Right-To-Know Act of 1986 (42  
89 USC 11001 et seq.) for a violation of Section 302, 304 or 311 to 313,  
90 inclusive, of said act.

91 (b) In adopting regulations regarding any schedule or methods  
92 prescribed by this section, the commissioner shall consider:

93 (1) The amount or ranges of amounts of assessment necessary to  
94 insure immediate and continued compliance;

95 (2) The character and degree of impact of the violation on the  
96 natural resources of the state, especially any rare or unique natural  
97 phenomena;

98 (3) The conduct of the person incurring the civil penalty in taking all  
99 feasible steps or procedures necessary or appropriate to comply or to  
100 correct the violation;

101 (4) Any prior violations by such person of statutes, regulations,  
102 orders or permits administered, adopted or issued by the  
103 commissioner;

104 (5) The economic and financial conditions of such person;

105 (6) The economic benefit which such person derived as a result of  
106 the violation;

107 (7) The character and degree of injury to, or interference with, public  
108 health, safety or welfare which is caused or threatened to be caused by  
109 such violation;

110 (8) The character and degree of injury or impairment to, or  
111 interference with, reasonable use of property which is caused or  
112 threatened to be caused by such violation;

113 (9) The character and degree of injury or impairment to, or  
114 interference with, the public trust in the air, water, land and other  
115 natural resources of the state;

116 (10) To the extent consistent with applicable law, any other factors  
117 the commissioner deems appropriate, including voluntary measures  
118 taken by such person to prevent pollution or enhance or preserve  
119 natural resources;

120 (11) In the case of violation of the provisions of subdivision (3) of  
121 subsection (a) of section 22a-135, the apparent seriousness of the  
122 release, occurrence, incident or other circumstance at the time it first  
123 became known to the licensee or any employee of such licensee, the  
124 extent of the delay from the time such licensee or employee had or in  
125 the exercise of reasonable care should have had knowledge of such  
126 release, occurrence, incident or circumstance until its reporting by the  
127 licensee in accordance with this subsection, subsection (a) of this  
128 section and sections 16-19g and 22a-135, and the conduct of the  
129 licensee in taking all necessary steps to prevent future violations of the  
130 provisions of said subdivision.

131 (c) Notwithstanding subsection (a) of this section, the commissioner  
132 may issue an order pursuant to chapter 446c, 446d or 446k to impose a  
133 civil penalty that exceeds the limits enumerated in said subsection (a),  
134 but in no case shall such penalty exceed one hundred thousand  
135 dollars. To determine the amount of such penalty, the commissioner  
136 shall consider the factors specified in subsection (b) of this section. Any  
137 self-reported information submitted in accordance with a permit or  
138 order issued, or regulation adopted pursuant to chapters 446c, 446d or  
139 446k shall be presumed to be factual.

140 ~~[(c)]~~ (d) If the commissioner has reason to believe that a violation

141 has occurred for which a civil penalty is authorized by this section, he  
142 may send to the violator, by certified mail, return receipt requested, or  
143 personal service, a notice which shall include:

144 (1) A reference to the sections of the statute, regulation, order or  
145 permit involved;

146 (2) A short and plain statement of the matters asserted or charged;

147 (3) A statement of the amount of the civil penalty or penalties or the  
148 method for calculating the penalty or penalties to be imposed upon  
149 finding after hearing that a violation has occurred or upon a default;  
150 and

151 (4) A statement of the party's right to a hearing.

152 [(d)] (e) The person to whom the notice is addressed shall have  
153 thirty days from the date of receipt of the notice in which to deliver to  
154 the commissioner written application for a hearing. If a hearing is  
155 requested then, after a hearing and upon a finding that a violation has  
156 occurred, the commissioner may issue a final order assessing a civil  
157 penalty under this section which is not greater than the penalty stated  
158 in the notice. The commissioner may amend a notice of assessment at  
159 any time before such notice becomes final, provided the person to  
160 whom the notice is addressed shall have thirty days from the date of  
161 receipt of such amendment in which to deliver to the commissioner a  
162 written application for a hearing on such amendment, and provided  
163 further the commissioner may amend a notice of assessment after a  
164 hearing has begun only with the permission of the hearing officer. If  
165 such a hearing is not so requested, or if such a request is later  
166 withdrawn, then the notice shall, on the first day after the expiration of  
167 such twenty-day period or on the first day after the withdrawal of such  
168 request for hearing, whichever is later, become a final order of the  
169 commissioner and the matters asserted or charged in the notice shall  
170 be deemed admitted unless modified by consent order, which shall be  
171 a final order. Any civil penalty may be mitigated by the commissioner

172 upon such terms and conditions as the commissioner in the  
173 commissioner's discretion deems proper or necessary upon  
174 consideration of the factors set forth in subsection (b) of this section.

175     ~~[(e)]~~ (f) All hearings under this section shall be conducted pursuant  
176 to sections 4-176e to 4-184, inclusive. The final order of the  
177 commissioner assessing a civil penalty shall be subject to appeal as set  
178 forth in section 4-183, except that any such appeal shall be taken to the  
179 superior court for the judicial district of New Britain and shall have  
180 precedence in the order of trial as provided in section 52-191. Such  
181 final order shall not be subject to appeal under any other provision of  
182 the general statutes. No challenge to any notice of assessment or final  
183 order of the commissioner assessing a civil penalty shall be allowed as  
184 to any issue which could have been raised by an appeal of an earlier  
185 order, notice, permit, denial or other final decision by the  
186 commissioner. Any civil penalty authorized by this section shall  
187 become due and payable (1) at the time of receipt of a final order in the  
188 case of a civil penalty assessed in such order after a hearing, (2) on the  
189 first day after the expiration of the period in which a hearing may be  
190 requested if no hearing is requested, or (3) on the first day after any  
191 withdrawal of a request for hearing.

192     ~~[(f)]~~ (g) Any person acting within the terms and conditions of a final  
193 order or permit issued to him by the commissioner shall not be subject  
194 to a civil penalty, under this section, for such actions.

195     ~~[(g)]~~ (h) A civil penalty assessed in a final order of the commissioner  
196 under this section may be enforced in the same manner as a judgment  
197 of the Superior Court. Such final order shall be served in person or by  
198 certified mail, return receipt requested. Any notice of violation or final  
199 order against a private corporation shall be served upon at least one of  
200 the individuals enumerated in section 52-57. After entry, a transcript of  
201 such final order may be filed by the commissioner, without requiring  
202 the payment of costs as a condition precedent to such filing, in the  
203 office of the clerk of the superior court in any one or more of the

204 following judicial districts: Any judicial district in which the  
 205 respondent resides, any judicial district in which the respondent has a  
 206 place of business, any judicial district in which the respondent owns  
 207 real property and any judicial district in which any real property  
 208 which is a subject of the proceedings is located; or, if the respondent is  
 209 not a resident of the state of Connecticut, in the judicial district of  
 210 Hartford. Upon such filing, such clerk or clerks shall docket such order  
 211 in the same manner and with the same effect as a judgment entered in  
 212 the superior court within the judicial district. Upon such docketing,  
 213 such order may be enforced as a judgment of such court.

214 [(h)] (i) The provisions of this section, sections 22a-2, 22a-6 of the  
 215 2008 supplement to the general statutes, 22a-6a, 22a-7, sections 22a-428,  
 216 subsection (d) of section 22a-430, sections 22a-431, 22a-432, 22a-433,  
 217 22a-437 and subsections (b) and (c) of section 22a-459 are in addition to  
 218 and in no way derogate from any other enforcement provisions  
 219 contained in any statute administered by the commissioner. The  
 220 powers, duties and remedies provided in such other statutes, and the  
 221 existence of or exercise of any powers, duties or remedies hereunder or  
 222 thereunder shall not prevent the commissioner from exercising any  
 223 other powers, duties or remedies provided herein, therein, at law or in  
 224 equity.

225 [(i)] (j) No penalty shall be assessed pursuant to this section which  
 226 exceeds two hundred thousand dollars or such other amount as may  
 227 be provided by federal law.

228 Sec. 2. Subsection (b) of section 22a-6e of the general statutes is  
 229 repealed and the following is substituted in lieu thereof (*Effective*  
 230 *October 1, 2008*):

231 (b) The commissioner, or his designee, shall render a final decision  
 232 to assess the administrative civil penalties established pursuant to this  
 233 section, and shall collect such penalties, in accordance with the  
 234 procedures specified in subsections (c) to [(g)] (h), inclusive, of section  
 235 22a-6b of the 2008 supplement to the general statutes, as amended by



236 this act. The commissioner may amend a notice of assessment at any  
237 time before such notice becomes final, provided the person to whom  
238 the notice is addressed shall have thirty days from the date of receipt  
239 of such amendment in which to deliver to the commissioner a written  
240 application for a hearing on such amendment, and provided further  
241 the commissioner may amend a notice of assessment after a hearing  
242 has begun only with the permission of the hearing officer. No  
243 challenge to any notice of civil penalty assessment shall be allowed as  
244 to any issue which could have been raised by an appeal of an earlier  
245 order, notice permit, denial or other final decision by the  
246 commissioner.

247 Sec. 3. Section 22a-75 of the general statutes is repealed and the  
248 following is substituted in lieu thereof (*Effective October 1, 2008*):

249 The commissioner may set schedules and assess civil penalties for  
250 any violation of this chapter pursuant to sections 22a-6a and 22a-6b of  
251 the 2008 supplement to the general statutes. Notice, hearing and  
252 appeal procedures shall be made pursuant to subsections [(c) to (h)] (d)  
253 to (i), inclusive, of section 22a-6b of the 2008 supplement to the general  
254 statutes, as amended by this act.

255 Sec. 4. Section 51-344b of the general statutes is repealed and the  
256 following is substituted in lieu thereof (*Effective October 1, 2008*):

257 Whenever the term "judicial district of Hartford" is used or referred  
258 to in the following sections of the general statutes, the term "judicial  
259 district of New Britain" shall be substituted in lieu thereof: Subsection  
260 (b) of section 3-70a, sections 3-71a and 4-164, subsection (c) of section 4-  
261 183, subdivision (4) of subsection (g) of section 10-153e, subparagraph  
262 (C) of subdivision (4) of subsection (e) of section 10a-109n of the 2008  
263 supplement to the general statutes, sections 12-3a, 12-89, 12-103, 12-  
264 208, 12-237, 12-242hh, 12-242ii, 12-242kk, 12-268l, 12-307, 12-312, 12-  
265 330m, 12-405k, 12-422, 12-448, 12-454, 12-463, 12-489, 12-522, 12-554, 12-  
266 586g and 12-597, subsection (b) of section 12-638i, sections 12-730, 14-  
267 57, 14-66 of the 2008 supplement to the general statutes, 14-195, 14-324,

268 14-331 and 19a-85, subsection (f) of section 19a-332e, subsection (d) of  
 269 section 19a-653, sections 20-156, 20-247, 20-307, 20-373, 20-583 and 21a-  
 270 55, subsection (e) of section 22-7, sections 22-320d and 22-386,  
 271 subsection [(e)] (f) of section 22a-6b of the 2008 supplement to the  
 272 general statutes, as amended by this act, section 22a-30, subsection (a)  
 273 of section 22a-34, subsection (b) of section 22a-34, section 22a-182a,  
 274 subsection (f) of section 22a-225, sections 22a-227, 22a-344, 22a-374,  
 275 22a-408 and 22a-449g, subsection (f) of section 25-32e, section 29-158,  
 276 subsection (e) of section 29-161z, sections 36b-30 and 36b-76,  
 277 subsection (f) of section 38a-41, section 38a-52, subsection (c) of section  
 278 38a-150, sections 38a-185, 38a-209 and 38a-225, subdivision (3) of  
 279 section 38a-226b, sections 38a-241, 38a-337 and 38a-657, subsection (c)  
 280 of section 38a-774, section 38a-776, subsection (c) of section 38a-817  
 281 and section 38a-994.

282 Sec. 5. Section 22a-175 of the general statutes is repealed and the  
 283 following is substituted in lieu thereof (*Effective October 1, 2008*):

284 (a) Any person who knowingly or with criminal negligence violates  
 285 any provision of this chapter, or any regulation, order or permit  
 286 adopted or issued thereunder except for a violation of subsection (b) of  
 287 this section, shall be fined not more than twenty-five thousand dollars  
 288 per day for each day of violation or be imprisoned not more than one  
 289 year, or both. A subsequent conviction for any such violation shall  
 290 carry a fine of not more than fifty thousand dollars per day for each  
 291 day of violation or imprisonment for not more than two years, or both.

292 (b) Any person who (1) knowingly makes any false statement,  
 293 representation or certification in any application, record, report, plan  
 294 or other document filed or required to be maintained under this  
 295 chapter, or under any regulation, order or permit adopted or issued  
 296 thereunder, [or who] (2) falsifies, tampers with or knowingly renders  
 297 inaccurate any monitoring device or method required to be maintained  
 298 under the provisions of this chapter, or any regulation, order or permit  
 299 adopted or issued thereunder, or (3) wilfully fails to maintain or

300 knowingly destroys, alters or conceals any record required to be  
301 maintained under this chapter, or any regulation adopted, or order or  
302 permit issued under this chapter, shall, upon conviction, be fined not  
303 more than [ten thousand dollars for each violation] fifty thousand  
304 dollars per day for each day of the violation or imprisoned not more  
305 than [six months for each violation] two years, or both. A subsequent  
306 conviction for any such violation shall carry a fine of not more than  
307 fifty thousand dollars per day for each day of the violation or  
308 imprisonment for not more than five years, or both.

309       Sec. 6. Section 22a-226a of the general statutes is repealed and the  
310 following is substituted in lieu thereof (*Effective October 1, 2008*):

311       (a) Any person who knowingly violates any provision of section  
312 22a-252, section 22a-208a, section 22a-208c, any permit issued under  
313 said section 22a-208a, subsection (c) or (d) of section 22a-250, any  
314 regulation adopted under section 22a-209 or 22a-231, or any order  
315 issued pursuant to section 22a-225 shall be fined not more than  
316 twenty-five thousand dollars per day for each day of violation or  
317 imprisoned not more than two years or both. A subsequent conviction  
318 for any such violation shall carry a fine of not more than fifty thousand  
319 dollars per day for each day of violation or imprisonment for not more  
320 than five years or both.

321       (b) Any person who, in violation of any provision of section 22a-  
322 208a, 22a-208c or 22a-252, any permit issued under section 22a-208a or  
323 subsection (c) or (d) of section 22a-250, any regulation adopted under  
324 section 22a-209 or 22a-231, or any order issued pursuant to section 22a-  
325 225: (1) Knowingly makes any false statement, representation or  
326 certification in any application, record, report, plan or other document  
327 filed or required to be maintained, (2) falsifies, tampers with or  
328 knowingly renders inaccurate any monitoring device or method  
329 required to be maintained, or (3) wilfully fails to maintain or  
330 knowingly destroys, alters or conceals any record required to be  
331 maintained, shall, upon conviction, be fined not more than fifty

332 thousand dollars for each day of the violation or imprisoned not more  
333 than two years, or both. A subsequent conviction for any such  
334 violation shall carry a fine of not more than fifty thousand dollars per  
335 day for each day of the violation or imprisonment for not more than  
336 five years, or both.

337       Sec. 7. Subsection (a) of section 22a-361 of the general statutes is  
338 repealed and the following is substituted in lieu thereof (*Effective*  
339 *October 1, 2008*):

340       (a) No person, firm or corporation, public, municipal or private,  
341 shall dredge, erect any structure, place any fill, obstruction or  
342 encroachment or carry out any work incidental thereto or retain or  
343 maintain any structure, dredging or fill, in the tidal, coastal or  
344 navigable waters of the state waterward of the high tide line until such  
345 person, firm or corporation has submitted an application and has  
346 secured from said commissioner a certificate or permit for such work  
347 and has agreed to carry out any conditions necessary to the  
348 implementation of such certificate or permit. (1) Each application for a  
349 permit, except for an emergency authorization, for any structure,  
350 filling or dredging which uses or occupies less than five thousand five  
351 hundred square feet in water surface area based on the perimeters of  
352 the project shall be accompanied by a fee equal to eighty cents per  
353 square foot provided such fee shall not be less than five hundred  
354 twenty-five dollars. (2) Each application for a permit for any structure,  
355 filling or dredging which uses or occupies five thousand five hundred  
356 square feet or more but less than five acres in water surface area based  
357 on the perimeters of the project shall be accompanied by a fee of three  
358 thousand three hundred dollars plus ten cents per square foot for each  
359 square foot in excess of five thousand five hundred square feet. (3)  
360 Each application for a permit for any structure, filling or dredging  
361 which uses or occupies five or more acres in water surface area based  
362 on the perimeters of the project shall be accompanied by a fee of  
363 nineteen thousand two hundred twenty-three dollars plus five  
364 hundred twenty-five dollars per acre for each acre or part thereof in

365 excess of five acres. (4) Each application for a mooring area or multiple  
 366 mooring facility, regardless of the area to be occupied by moorings,  
 367 shall be accompanied by a fee of five hundred twenty-five dollars  
 368 provided that such mooring areas or facilities shall not include fixed or  
 369 floating docks, slips or berths. (5) Application fees for aquaculture  
 370 activities shall not be based on areal extent. The commissioner may  
 371 waive or reduce any fee [payable to him] for [(1)] (A) a tidal wetlands  
 372 or coastal resource restoration or enhancement activity, [(2)] (B)  
 373 experimental activities or demonstration projects, [(3)] (C) nonprofit  
 374 academic activities, or [(4)] (D) public access activities in tidal, coastal  
 375 or navigable waters, provided no fee shall be waived or reduced for  
 376 activities required by statute, regulation, permit, order or enforcement  
 377 action. The application fee for the retention of a structure built in  
 378 violation of this subsection where such structure is ineligible for a  
 379 certificate of permission under section 22a-363b shall be four times the  
 380 fee calculated in accordance with subdivisions (1) to (4), inclusive, of  
 381 this subsection. The commissioner may lower such fee based upon the  
 382 commissioner's finding of significant extenuating circumstances. As  
 383 used in this section, "resource restoration or enhancement activity"  
 384 means an action taken to return a wetland or coastal resource to a prior  
 385 natural condition or to improve the natural functions or habitat value  
 386 of such resource, but shall not include actions required pursuant to an  
 387 enforcement action of the commissioner, and "public access activities"  
 388 means activities whose principal purpose is to provide or increase  
 389 access for the general public to tidal, coastal or navigable waters,  
 390 including, but not limited to, boardwalks, boat ramps, observation  
 391 areas and fishing piers.

392 Sec. 8. Section 22a-407 of the general statutes is repealed and the  
 393 following is substituted in lieu thereof (*Effective October 1, 2008*):

394 (a) Any person who violates any provision of this chapter, any order  
 395 or permit issued by the commissioner pursuant to this chapter shall  
 396 forfeit to the state a sum not exceeding [one] twenty-five thousand  
 397 dollars, to be fixed by the court, for each offense. Each violation shall

398 be a separate and distinct offense and, in case of a continuing violation,  
399 each day's continuance thereof shall be deemed to be a separate and  
400 distinct offense. Any dam that has been constructed, altered, rebuilt,  
401 repaired or replaced without the permit required by section 22a-403 or  
402 that remains in unsafe condition shall be deemed a continuing  
403 violation. The Attorney General, upon complaint of the commissioner,  
404 shall institute an action to recover such forfeiture and to enjoin such  
405 violation and require its correction.

406 (b) Any person who knowingly or with criminal negligence violates  
407 any provision of chapter 446j shall, for a first violation, be fined not  
408 more than twenty-five thousand dollars for each day of the violation or  
409 be imprisoned not more than one year, or both, and for a subsequent  
410 violation, be fined not more than fifty thousand dollars for each day of  
411 the violation or be imprisoned not more than two years, or both.

412 (c) Any person who knowingly makes a false statement,  
413 representation or certification in any application, record, plan or other  
414 document filed or required to be maintained under this chapter or  
415 section 22a-6 or 22a-7 shall, for a first violation, be fined not more than  
416 twenty-five thousand dollars for each day of the violation or be  
417 imprisoned not more than one year, or both, and for a subsequent  
418 violation, be fined not more than fifty thousand dollars for each day of  
419 the violation or be imprisoned not more than two years, or both.

420 (d) All penalties collected pursuant to this section shall be used by  
421 the Commissioner of Environmental Protection to (1) inventory or  
422 inspect dams, (2) promote dam removal, or (3) support dam safety  
423 technical assistance and outreach.

424 (e) For the purposes of subsections (c) and (d) of this section,  
425 "person" has the same meaning as in section 22a-2 and includes any  
426 responsible corporate officer or municipal official.

427 Sec. 9. Subsections (b) and (c) of section 22a-430 of the general  
428 statutes are repealed and the following is substituted in lieu thereof

429 *(Effective October 1, 2008):*

430 (b) The commissioner, at least thirty days before approving or  
 431 denying a permit application for a discharge, shall publish once in a  
 432 newspaper having a substantial circulation in the affected area notice  
 433 of (1) the name of the applicant; (2) the location, volume, frequency  
 434 and nature of the discharge; (3) the tentative decision on the  
 435 application, and (4) additional information the commissioner deems  
 436 necessary to comply with the federal Clean Water Act (33 USC 1251 et  
 437 seq.). There shall be a comment period following the public notice  
 438 during which period interested persons and municipalities may  
 439 submit written comments. After the comment period, the  
 440 commissioner shall make a final determination either that (A) such  
 441 discharge would not cause pollution of any of the waters of the state,  
 442 in which case he shall issue a permit for such discharge, or (B) after  
 443 giving due regard to any proposed system to treat the discharge, that  
 444 such discharge would cause pollution of any of the waters of the state,  
 445 in which case he shall deny the application and notify the applicant of  
 446 such denial and the reasons therefor, or (C) the proposed system to  
 447 treat such discharge will protect the waters of the state from pollution,  
 448 in which case he shall, except as provided pursuant to subsection (j) of  
 449 this section, require the applicant to submit plans and specifications  
 450 and such other information as he may require and shall impose such  
 451 additional conditions as may be required to protect such water, and if  
 452 the commissioner finds that the proposed system to treat the  
 453 discharge, as described by the plans and specifications or such other  
 454 information as may be required by the commissioner pursuant to  
 455 subsection (j) of this section, will protect the waters of the state from  
 456 pollution, he shall notify the applicant of his approval and, when such  
 457 applicant has installed such system, in full compliance with the  
 458 approval thereof, the commissioner shall issue a permit for such  
 459 discharge, or (D) the proposed system to treat such discharge, as  
 460 described by the plans and specifications, will not protect the waters of  
 461 the state, in which case he shall promptly notify the applicant that its  
 462 application is denied and the reasons therefor. No permit shall be

463 issued for an alternative on-site sewage treatment system, as defined in  
464 the Public Health Code, in a drinking water supply watershed unless  
465 the commissioner determines that (i) such system is the only feasible  
466 solution to an existing pollution problem and that the proposed system  
467 capacity does not exceed the capacity of the failed on-site system, or  
468 (ii) such system is for the expansion of an existing municipal or public  
469 school project or for new construction of a municipal or public school  
470 project on an existing municipal or public school site, in a municipality  
471 in which a majority of the land is located within a drinking water  
472 supply watershed. The commissioner shall, by regulations adopted in  
473 accordance with the provisions of chapter 54, establish procedures,  
474 criteria and standards as appropriate for determining if (I) a discharge  
475 would cause pollution to the waters of the state, and (II) a treatment  
476 system is adequate to protect the waters of the state from pollution.  
477 Such procedures, criteria and standards may include schedules of  
478 activities, prohibitions of practices, operating and maintenance  
479 procedures, management practices and other measures to prevent or  
480 reduce pollution of the waters of the state, provided the commissioner  
481 in adopting such procedures, criteria and standards shall consider best  
482 management practices. The regulations shall specify the circumstances  
483 under which procedures, criteria and standards for activities other  
484 than treatment will be required. For the purposes of this section, "best  
485 management practices" means those practices which reduce the  
486 discharge of waste into the waters of the state and which have been  
487 determined by the commissioner to be acceptable based on, but not  
488 limited to, technical, economic and institutional feasibility. [Any  
489 applicant, or in the case of a permit issued pursuant to the federal  
490 Water Pollution Control Act, any person or municipality, who is  
491 aggrieved by a decision of the commissioner where an application has  
492 not been given a public hearing shall have the right to a hearing and an  
493 appeal therefrom in the same manner as provided in sections 22a-436  
494 and 22a-437. Any applicant, or in the case of a permit issued pursuant  
495 to the federal Water Pollution Control Act, any person or municipality,  
496 who is aggrieved by a decision of the commissioner where an



497 application has been given a public hearing shall have the right to  
498 appeal as provided in section 22a-437.] The commissioner may, by  
499 regulation, exempt certain categories, types or sizes of discharge from  
500 the requirement for notice prior to approving or denying the  
501 application if such category, type or size of discharge is not likely to  
502 cause substantial pollution. The commissioner may hold a public  
503 hearing prior to approving or denying any application if in his  
504 discretion the public interest will be best served thereby, and he shall  
505 hold a hearing upon receipt of a petition signed by at least twenty-five  
506 persons. Notice of such hearing shall be published at least thirty days  
507 before the hearing in a newspaper having a substantial circulation in  
508 the area affected.

509 (c) The permits issued pursuant to this section shall be for a period  
510 not to exceed five years, except that any such permit shall be subject to  
511 the provisions of section 22a-431. Such permits: (1) Shall specify the  
512 manner, nature and volume of discharge; (2) shall require proper  
513 operation and maintenance of any pollution abatement facility  
514 required by such permit; (3) may be renewable for periods not to  
515 exceed five years each in accordance with procedures and  
516 requirements established by the commissioner; and (4) shall be subject  
517 to such other requirements and restrictions as the commissioner deems  
518 necessary to comply fully with the purposes of this chapter, the federal  
519 Water Pollution Control Act and the federal Safe Drinking Water Act.  
520 An application for a renewal of a permit which expires after January 1,  
521 1985, shall be filed with the commissioner at least one hundred eighty  
522 days before the expiration of such permit. The commissioner, at least  
523 thirty days before approving or denying an application for renewal of  
524 a permit, shall publish once in a newspaper having substantial  
525 circulation in the area affected, notice of (A) the name of the applicant;  
526 (B) the location, volume, frequency and nature of the discharge; (C) the  
527 tentative decision on the application; and (D) such additional  
528 information the commissioner deems necessary to comply with the  
529 federal Clean Water Act (33 USC 1251 et seq.). There shall be a  
530 comment period following the public notice during which period

531 interested persons and municipalities may submit written comments.  
532 After the comment period, the commissioner shall make a final  
533 determination that (i) continuance of the existing discharge would not  
534 cause pollution of the waters of the state, in which case he shall renew  
535 the permit for such discharge, (ii) continuance of the existing system to  
536 treat the discharge would protect the waters of the state from  
537 pollution, in which case he shall renew a permit for such discharge,  
538 (iii) the continuance of the existing system to treat the discharge, even  
539 with modifications, would not protect the waters of the state from  
540 pollution, in which case he shall promptly notify the applicant that its  
541 application is denied and the reasons therefor, or (iv) modification of  
542 the existing system or installation of a new system would protect the  
543 waters of the state from pollution, in which case he shall renew the  
544 permit for such discharge. Such renewed permit may include a  
545 schedule for the completion of the modification or installation to allow  
546 additional time for compliance with the final effluent limitations in the  
547 renewed permit provided (I) continuance of the activity producing the  
548 discharge is in the public interest; (II) the interim effluent limitations in  
549 the renewed permit are no less stringent than the effluent limitations in  
550 the previous permit; and (III) the schedule would not be inconsistent  
551 with the federal Water Pollution Control Act. No permit shall be  
552 renewed unless the commissioner determines that the treatment  
553 system adequately protects the waters of the state from pollution. [Any  
554 applicant, or in the case of a permit issued pursuant to the federal  
555 Water Pollution Control Act, any person or municipality, who is  
556 aggrieved by a decision of the commissioner where an application for  
557 a renewal has not been given a public hearing shall have the right to a  
558 hearing and an appeal therefrom in the same manner as provided in  
559 sections 22a-436 and 22a-437. Any applicant, or in the case of a permit  
560 issued pursuant to the federal Water Pollution Control Act, any person  
561 or municipality, who is aggrieved by a decision of the commissioner  
562 where an application for a renewal has been given a public hearing  
563 shall have the right to appeal as provided in section 22a-437.] Any  
564 category, type or size of discharge that is exempt from the requirement

565 of notice pursuant to subsection (b) of this section for the approval or  
566 denial of a permit shall be exempt from notice for approval or denial of  
567 a renewal of such permit. The commissioner may hold a public hearing  
568 prior to approving or denying an application for a renewal if in his  
569 discretion the public interest will be best served thereby, and he shall  
570 hold a hearing upon receipt of a petition signed by at least twenty-five  
571 persons. Notice of such hearing shall be published at least thirty days  
572 before the hearing in a newspaper having a substantial circulation in  
573 the area affected.

574 Sec. 10. Section 22a-436 of the general statutes is repealed and the  
575 following is substituted in lieu thereof (*Effective from passage*):

576 Each order to abate pollution issued under section 22a-428 or 22a-  
577 431, [or decision under subsection (b) or (c) of section 22a-430] shall be  
578 sent by certified mail, return receipt requested, to the subject of such  
579 order [or decision] and shall be deemed issued upon deposit in the  
580 mail. Any person who or municipality which is aggrieved by any such  
581 order [or decision to deny an application or, in the case of a permit  
582 issued pursuant to the federal Water Pollution Control Act, any  
583 decision without prior hearing under subsection (b) or (c) of section  
584 22a-430] may, within thirty days from the date such order [or decision]  
585 is sent, request a hearing before the commissioner. The commissioner  
586 shall not grant any request for a hearing at any time thereafter. After  
587 such hearing, the commissioner shall consider the facts presented to  
588 him by the person or municipality, including, but not limited to,  
589 technological feasibility, shall consider the rebuttal or other evidence  
590 presented to or by him, and shall then revise and resubmit the order to  
591 the person or municipality, or inform the person or municipality that  
592 the previous order has been affirmed and remains in effect. The  
593 request for a hearing as provided for in this section [or a decision  
594 under subsection (b) or (c) of section 22a-430 made after a public  
595 hearing] shall be a condition precedent to the taking of an appeal by  
596 the person or municipality under the provisions of section 22a-437. The  
597 commissioner may, after the hearing provided for in this section, or at

598 any time after the issuance of his order, modify such order by  
599 agreement or extend the time schedule therefor if he deems such  
600 modification or extension advisable or necessary, and any such  
601 modification or extension shall be deemed to be a revision of an  
602 existing order and shall not constitute a new order. There shall be no  
603 hearing subsequent to or any appeal from any such modification or  
604 extension.

605 Sec. 11. Subsection (d) of section 22a-438 of the general statutes is  
606 repealed and the following is substituted in lieu thereof (*Effective*  
607 *October 1, 2008*):

608 (d) Any person who (1) knowingly makes any false statement,  
609 representation, or certification in any application, record, report, plan,  
610 or other document filed or required to be maintained under this  
611 chapter, or section 22a-6 or 22a-7, [or] (2) who falsifies, tampers with,  
612 or knowingly renders inaccurate any monitoring device or method  
613 required to be maintained under this chapter, or section 22a-6 or 22a-7,  
614 or (3) wilfully fails to maintain or knowingly destroys, alters or  
615 conceals any record required to be maintained under this chapter,  
616 section 22a-6 or 22a-7, shall upon conviction be fined not more than  
617 [twenty-five thousand dollars for each violation] fifty thousand dollars  
618 per day for each day of the violation or imprisoned not more than two  
619 years, [for each violation] or both. A subsequent conviction for any  
620 such violation shall carry a fine of not more than fifty thousand dollars  
621 per day for each day of the violation or imprisonment of not more than  
622 five years, or both. For the purposes of this subsection, person includes  
623 any responsible corporate officer or municipal official.

624 Sec. 12. (NEW) (*Effective October 1, 2008*) (a) No person shall cause or  
625 allow a motor bus, as defined in section 14-1 of the 2008 supplement to  
626 the general statutes, to operate for more than three consecutive  
627 minutes when such motor bus is not in motion, except as follows:

628 (1) When a motor bus is forced to remain motionless because of  
629 traffic conditions or mechanical difficulties over which the operator

630 has no control;

631 (2) When the operator is in the process of receiving or discharging  
632 passengers;

633 (3) When it is necessary to operate heating, cooling or auxiliary  
634 equipment that is located in or on the motor bus to accomplish the  
635 intended use of the motor bus, including, but not limited to, the  
636 operation of safety equipment;

637 (4) When it is necessary to maintain a safe temperature for  
638 passengers with special needs;

639 (5) When the outdoor temperature is below twenty degrees  
640 Fahrenheit; or

641 (6) When the motor bus is undergoing maintenance.

642 (b) A violation of any provision of this section shall, for a first  
643 offense, constitute an infraction, and for any subsequent offense, carry  
644 a fine of not less than one hundred dollars or more than five hundred  
645 dollars.

646 Sec. 13. Subsection (d) of section 51-56a of the general statutes is  
647 repealed and the following is substituted in lieu thereof (*Effective*  
648 *October 1, 2008*):

649 (d) Each person who pays in any sum as a fine or forfeiture for any  
650 violation of sections 14-218a, 14-219, 14-222, 14-223, 14-227a, sections  
651 14-230 to 14-240, inclusive, sections 14-241 to 14-249, inclusive, section  
652 14-279 for the first offense, sections 14-289b, 14-299, 14-301 to 14-303,  
653 inclusive, section 12 of this act or any regulation adopted under said  
654 sections or ordinance enacted in accordance with said sections shall  
655 pay an additional fee of ten dollars. The state shall remit to the  
656 municipalities in which the violations occurred the amounts paid  
657 under this subsection. Each clerk of the Superior Court or the Chief  
658 Court Administrator, or any other official of the Superior Court

659 designated by the Chief Court Administrator, on or before the thirtieth  
 660 day of January, April, July and October in each year, shall certify to the  
 661 Comptroller the amount due for the previous quarter under this  
 662 subsection to each municipality served by the office of the clerk or  
 663 official.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	22a-6b
Sec. 2	<i>October 1, 2008</i>	22a-6e(b)
Sec. 3	<i>October 1, 2008</i>	22a-75
Sec. 4	<i>October 1, 2008</i>	51-344b
Sec. 5	<i>October 1, 2008</i>	22a-175
Sec. 6	<i>October 1, 2008</i>	22a-226a
Sec. 7	<i>October 1, 2008</i>	22a-361(a)
Sec. 8	<i>October 1, 2008</i>	22a-407
Sec. 9	<i>October 1, 2008</i>	22a-430(b) and (c)
Sec. 10	<i>from passage</i>	22a-436
Sec. 11	<i>October 1, 2008</i>	22a-438(d)
Sec. 12	<i>October 1, 2008</i>	New section
Sec. 13	<i>October 1, 2008</i>	51-56a(d)

***Statement of Purpose:***

To give the Commissioner of Environmental Protection greater discretion when assessing civil penalties, to make the criminal penalties for failing to maintain or destroying information concerning air, water, solid and hazardous waste violations consistent, to require parties to seek a hearing regarding certain water permits before a final determination has been made, to increase the fee for a structure constructed without the required permit to four times the original application fee, to increase the current penalties for violating the dam safety provisions to twenty-five thousand dollars per offense, and to make the idling of a motor bus an infraction for a first offense and to carry a fine of one hundred to five hundred dollars for a subsequent offense.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*